

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

RICHARD KLEIN,

Petitioner,

Case No. C-1-01-794

v.

Judge Beckwith

HAROLD CARTER, WARDEN,

Magistrate Judge Black

Respondent.

**RESPONDENT'S MEMORANDUM OPPOSING PETITIONER'S MOTION FOR
DEFAULT JUDGMENT**

Petitioner has filed a motion for default judgment. His motion should be denied because there is no basis on which to issue a default judgment. Respondent is not a party who has failed to plead or otherwise defend as provided by the rules. See Civ.R.55(a).

Respectfully submitted,

Jim Petro
Ohio Attorney General

S/Diane Mallory
Diane Mallory (0014867)
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was mailed by regular, first-class mail to Richard Klein, #350-022, Ross Correctional Institution, P. O. Box 7010, Chillicothe, Ohio 45601, on the 6th day of December, 2004.

S/Diane Mallory